

United States District Court
Eastern District of Wisconsin

Brown v. City of Milwaukee
18 CV 922



Video Deposition of
Bojan Samardzic
Recorded 05/09/2019 in Milwaukee, WI
9:09 am - 1:31 pm, 233 mins. elapsed

Magne-Script

(414) 352-5450

22360 Standard transcript with Index

Video Deposition of Bojan Samardzic 5/9/2019

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Witness

Bojan Samardzic

Thursday 05/09/2019 at 09:00 by: Jeff Joseph

Milwaukee City Attorneys Office

841 N. Broadway #716

Milwaukee, WI 53202

Brown v. City of Milwaukee

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United States District Court

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A P P E A R A N C E S

Mark L. Thomsen and Scott B. Thompson
Gingras, Cates & Wachs
3228 Turnberry Oak Dr. #210
Waukesha, WI 53188
On behalf of the Plaintiff

Naomi E. Gehling
Milwaukee City Attorneys Office
841 N. Broadway #716
Milwaukee, WI 53202
On behalf of the Defendants

1 Q And the DAAT II, 54 hours of training, do you recall
2 who did that?

3 A The what?

4 Q It's DAAT II. It was 54 hours. Do you recall the
5 instructor for that?

6 A I do not.

7 Q And then there was Interrogations, four hours. Do you
8 recall who taught you that?

9 A I do not.

10 Q And Testifying in Court, do you recall who taught you
11 that?

12 A I do not.

13 Q And looking at the third page of Exhibit 3, there's a
14 reference for Body Worn Camera User Training in May of
15 2016. Do you recall who provided that training to
16 you? See, it's the top line?

17 A I do see the line. As far as who provided me that
18 training, I can't recall.

19 Q Then there's a reference to Electronic Control Device
20 New User Tactical Skills in April of '17. Do you
21 recall who provided you that training?

22 A I do not.

23 Q And then there is a remedial training, Pro -- it says
24 Pro Com Relational Skills, June 11th, 2018. Do you
25 recall who provided you that training?

1 A Many people, but I do not recall.

2 Q And when you say "many" --

3 A Correct.

4 Q -- who do you remember, just generally, being
5 involved, without the specifics?

6 A There was like three or four instructors there, but I
7 don't -- I don't recall their names.

8 Q You don't recall any of their names?

9 A No, sir.

10 Q And tell me, why did you receive remedial training in
11 June of 2018?

12 A Why did I receive remedial training?

13 Q Yeah.

14 A It says Remedial Training Pro Com, so I assume that I
15 needed some remedial training.

16 Q Tell me why.

17 A I believe it was -- I believe it was actually for this
18 incident. Yeah.

19 Q So who decided you needed remedial training as a
20 result of your contact with Sterling Brown on January
21 26, 2018?

22 A I believe my command staff, people higher than my
23 position.

24 Q So give me some names of command staff. That means a
25 lot of people.

1 A My captain, my lieutenant, assistant chiefs,
2 inspectors, the chief. That would be some command
3 staff.

4 Q Officer Samardzic, who did you talk to about why you
5 needed remedial training in June of 2018? Names of
6 human beings, not just command staff and positions.

7 A I don't recall. I believe I didn't really talk to
8 many people.

9 Q Well, tell me who you talked to. It doesn't sound
10 very remedial if you can't even remember who told you
11 to get it right.

12 A Oh, you mean who I talked to at the remedial training?

13 Q No. We're going to get -- you said you didn't
14 remember that. Now you do?

15 A I don't, but --

16 Q Okay.

17 A -- yeah. Okay.

18 Q So, I mean, let me ask you this. Is this every day
19 that you get an order for remedial training? This is
20 like no big deal?

21 A No. No, this was the first remedial training I've
22 had.

23 Q And honestly, I hope it's the only one you ever need.
24 Fair enough?

25 A Fair enough.

1 Q Okay. Because it is a big deal when you have to have
2 remedial training, correct?

3 A It is.

4 Q Okay. Because this is a big deal in your life.
5 You've just been an officer here, what, going on three
6 years, right?

7 A Correct.

8 Q Okay. You're at the front end of your career. I'm
9 assuming you want it to be a long one, correct?

10 A Yes, sir.

11 Q Okay. You know, I live in your city. I'm hoping
12 you're successful and you serve and protect. So it is
13 a big deal when a young officer is told that they need
14 remedial training as a result of an incident, right?

15 A Correct.

16 Q Okay. And I'm assuming, because it is a big deal, you
17 remember something about the whole event, and that's
18 why I'm asking you. So who did you talk to about why
19 you needed remedial training?

20 A I'm not sure I understand the question. Are you
21 asking before I went to the remedial training?

22 Q Yes, yes.

23 A Or are you talking at the remedial training?

24 Q You already told me you didn't remember who you talked
25 to at the remedial training, right?

1 A Correct, yes.

2 Q So now I'm talking about before you got there, okay,
3 because I'm very interested, Officer, in the
4 discussions you had with people that got you to the
5 remedial training and why you ended up at the remedial
6 training. Are you with me? That's --

7 A Okay.

8 Q -- those are the questions in the back of my mind.

9 A Sure.

10 Q So --

11 A Well, as far as the remedial training goes, they told
12 us that we needed some remedial training in regards to
13 the Sterling Brown incident and that we were going to
14 get that. And that came from, you know, the
15 lieutenant, the captain, Internal Affairs Division,
16 stuff like that.

17 Q Okay. I need some names. Who is the lieutenant?

18 A The current lieutenant?

19 Q No. The one that talked to you about the remedial
20 training.

21 A I believe it was Lieutenant Shelley Metzler, I
22 believe, but I can't say for sure. It was, you
23 know...

24 Q Okay, that's good. So --

25 A ...a while ago.

1 Q Well, I mean, the training hasn't even been a year,
2 right?

3 A Yeah.

4 Q Okay. All right. So you recall Lieutenant Shelley
5 Metzler?

6 A Uh-huh.

7 Q Yes?

8 A Yes, I do.

9 Q Okay. Who else? I'm just trying to get the names
10 before we get into what the discussions were.

11 A Officer Kai Anderson, Detective Metz.

12 Q Okay, Officer -- what's -- you said --

13 A Kai.

14 Q Do you know how to sp--

15 A K-a-i.

16 Q K-a-i. Anderson?

17 A Anderson.

18 Q Okay. Is it o-n or e-n, do you know?

19 A I believe it's o-n.

20 Q Okay. And detective who?

21 A Detective Metz, M-e-t-z, I believe.

22 Q Okay. So Officer Kai Anderson --

23 A Uh-huh.

24 Q -- what was Officer Kai Anderson's role in getting you
25 to the remedial?

1 A He was -- he had sent me an email stating, "Hey, you
2 are required to take this remedial training class,"
3 and, yeah, that was his role.

4 MR. THOMPSON: Counsel, I believe we had
5 asked for emails relating to this. I haven't
6 seen this email.

7 MS. GEHLING: I'm still going through
8 emails. There's multiple documents that Kris
9 identified in our emails that we are still trying
10 to get through.

11 THE REPORTER: I'm sorry, Kris identified to
12 you?

13 MS. GEHLING: Kris Williams, my paralegal,
14 Kris Williams.

15 THE REPORTER: Thank you.

16 MS. GEHLING: If things would stop rolling
17 in, I could get to them. I'm one person trying
18 to handle your scorched earth litigation, Mr.
19 Thomsen. I'll get to it, I promise.

20 MR. THOMSEN: First of all, this is --
21 there's nothing scorched earth about this,
22 Counsel.

23 MS. GEHLING: You're allowed to have --

24 MR. THOMSEN: I have been more than patient.

25 THE REPORTER: I'm sorry, I didn't get what

1 you said.

2 MS. GEHLING: That's my opinion. That's how
3 I feel right now. You can call your way of
4 litigating whatever you would like to call it.
5 You can -- you can characterize it how you would
6 like to characterize it. My one woman's opinion
7 on how this litigation has been conducted, I feel
8 like it is scorched earth. I am doing my best to
9 get you what you have asked for.

10 MR. THOMSEN: Counsel, I can appreciate that
11 you believe you should have more people helping
12 you. That does not make anything I ask -- we've
13 been waiting for the emails for months and months
14 and months and months. I appreciate that you say
15 that you're still working on them. And I just
16 want to -- because the Officer said he had it,
17 and as long as I'm getting it, we'll come back to
18 it.

19 Q So, Officer, if there's something in the email that I
20 want to come back and revisit with you, I'm going to
21 reserve that right. I don't think it's going to be
22 necessary.

23 It sounds like the email just came from Officer
24 Kai Anderson setting up the remedial training,
25 correct?

1 A That's correct.

2 Q Did you have any discussions with Officer Kai Anderson
3 as to what it was about your involvement in this
4 incident that required you to have the remedial
5 training?

6 A No.

7 Q Okay. Now, with respect to Detective Metz, what was
8 Detective Metz's role in this remedial training?

9 A He was also on the email that Officer Anderson sent
10 over to me.

11 Q Fair enough. Did you ever have any discussions with
12 Detective Metz as to what it was about your conduct in
13 relationship to Sterling Brown that required remedial
14 training?

15 A No.

16 Q And did you ever have any discussions with Detective
17 Metz about the incident itself and why you needed
18 remedial training?

19 A At the training, yes. At the remedial training
20 itself, yes.

21 Q So Detective Metz was part of that?

22 A Yes.

23 Q Okay. So you do remember someone in the training now?

24 A It's -- I do, yeah.

25 Q Okay. And --

1 A Right now -- go ahead.

2 Q I'm just saying, okay? We're going to get there.

3 A Sure.

4 Q All right. So just...

5 A It's coming back to me now.

6 Q Fair enough. As I expected once we talk about it,
7 right?

8 A Yes.

9 Q Okay. So we'll come back to that discussion in the
10 training. But right now I'm still focusing on what
11 occurred before, okay?

12 A Sure.

13 Q You mentioned Lieutenant Shelley Metzler, correct?

14 A Yes.

15 Q Okay. What discussions did you have with her before
16 you got to the remedial training as to why you needed
17 remedial training?

18 A I believe the only discussion I had with Lieutenant
19 Metzler was the -- she went over my use of force, and
20 then -- and then it was forwarded to the Internal
21 Affairs Division.

22 Q So tell me about this discussion you had with
23 Lieutenant Metzler about your use of force.

24 A What would you like to know?

25 Q Everything. I want to know everything about that

1 discussion.

2 A Everything about the discussion. It was -- it's
3 department standard to go over use of force with any
4 officer. So we, you know, went through that. She had
5 some questions that the department requires of her to
6 ask. She completed that form, she forwarded it to the
7 Internal Affairs Division, and that was that.

8 MR. THOMSEN: Can we go off the record for a
9 minute?

10 THE REPORTER: Off the record.

11 (Off the record)

12 THE REPORTER: Back on the record.

13 BY MR. THOMSEN:

14 Q This discussion that you had with Lieutenant Metzler,
15 when did that occur in relationship to your use of
16 force on Sterling Brown?

17 A A couple days after the incident.

18 Q And you said Lieutenant Metzler had some questions as
19 to why you used your taser, correct?

20 A Yes.

21 Q And I'm assuming the question was, "Look, Sterling
22 Brown was there. Grams was going to give him a
23 warning. You knew that you had been asked to leave,
24 so why didn't you just leave?" Right, that would have
25 been one of the questions?

1 A That was not one of the questions, no.

2 Q Okay. So she didn't ask you why you just didn't
3 leave?

4 A She did ask that.

5 Q And what did you tell -- what did you tell her in
6 terms of why, because you were with Officer Collins,
7 correct?

8 A That's correct.

9 Q So when you knew it was just a traffic citation and
10 Grams said you can leave, why didn't you and Collins
11 just leave?

12 A Well, we were going to leave.

13 Q But you didn't, right?

14 A Correct.

15 Q So why didn't you leave?

16 A As we were leaving, we got back into our squad car,
17 and both myself and Officer Collins looked up and we
18 observed your client, Mr. Brown, swing away the hands
19 of either a sergeant or an officer -- it was hard to
20 tell at the time -- and then push that subject back,
21 almost causing that person to fall back. So at that
22 point, for safety and we didn't really know what was
23 going on, we returned from our vehicle back to where
24 Mr. Brown was standing.

25 Q So did -- when you saw this alleged incident take

1 place, did any officer actually ask you to return?

2 A No.

3 Q Did anybody, any officer say anything in terms of,
4 "Oh, I am worried for my safety. Please show up and
5 help"?

6 A No.

7 Q So why didn't you just leave?

8 A Well, in the academy and through our training and
9 everything we kind of go through, we're always told
10 and taught to protect our sergeants and, you know,
11 always look out for your sergeant, you know, he's our
12 boss. We had two sergeants -- two, not one, but two
13 on scene, so my concern was for the safety of my
14 sergeants. And as I observed, one of the sergeants
15 was very close to Mr. Brown when this tussle ensued,
16 so that's why both myself and Mr. Collins, or Officer
17 Collins, returned back to where Mr. Brown was. Nobody
18 has to ask you to do that. That's just a common
19 courtesy and an officer safety aspect.

20 Q So when you went back, did these two sergeants say,
21 "Get back in your vehicle and go"?

22 A They did not.

23 Q Did the officers ever say to, "Oh, I am concerned for
24 my safety"?

25 A They did not.

1 after the incident with Lieutenant Shelley Metzler.

2 Are you with me?

3 A Yes.

4 Q Okay. We were talking about your discussion. What
5 were her concerns or questions about your use of the
6 taser?

7 A Questions regarding the taser were, were you there to
8 investigate or were you there just to answer a call
9 for backup? Are you taser trained? Did you take out
10 a taser that night? Did you deploy your taser? Stuff
11 like that.

12 Q Did you tell Lieutenant Metzler that you didn't leave
13 because you decided you were going to protect the
14 sergeants?

15 A I did.

16 Q And when you told the lieutenant that, I'm assuming
17 she said you also had an obligation to protect Mr.
18 Brown, correct?

19 A She did not state that, but technically, you are
20 correct.

21 Q And what was it about the incident that they
22 determined that you should have remedial training, as
23 opposed to some other form of discipline, for your use
24 of force that night?

25 A So my understanding of the remedial training was

1 everybody involved is getting some form of remedial
2 training.

3 Q And who told you that? Was that Detective Metz?

4 A I believe it was either a lieutenant or a captain.

5 Q Do you which recall which lieutenant and which
6 captain?

7 A I don't.

8 Q And did they tell all of you at the same meeting?

9 A I don't really recall how they told us we were getting
10 remedial training, so I can't answer that question.

11 Q On how many occasions after the event were you sitting
12 down with the officers involved in this incident and
13 when it was discussed in terms of what the remedial
14 training was going to be?

15 A I'm sorry, I don't understand what you're asking me.

16 Q Okay, fair enough. You said that they told everyone
17 involved was going to get some type of remedial
18 training, correct?

19 A Yes.

20 Q So the lieutenant said it or a captain said it, you
21 don't recall.

22 A Correct.

23 Q My assumption may be wrong is that all of you were in
24 a room talking about it and somebody said that to you
25 all.

1 A I'm not sure. I don't recall if it was either verbal
2 like, hey, you're going to get some form of remedial
3 training, or if it was electronic. I don't recall.

4 Q Do you remember everybody being in a room together
5 talking about it?

6 A At the training? Yes.

7 Q And before the training?

8 A No.

9 Q Okay. So you don't have a specific recollection that
10 after the incident and before the training, all of you
11 involved sitting in the same room talking about it?

12 A I do not.

13 Q Okay. And as you -- so you don't know if you were
14 other officers involved when you received the notice,
15 you just don't remember sitting here?

16 A Correct.

17 Q Okay, fair enough. So let's go to the training. All
18 of you were there?

19 A Yes. Everybody involved in the incident was there at
20 the training.

21 Q And the -- I don't want to miss anybody.

22 A Okay.

23 Q We had Sergeant Jeffrey Krueger there, correct?

24 A Yes.

25 Q Sergeant Sean Mahnke was there?

1 A Yes.

2 Q Did Officer Erik Andrade make it there or had he been
3 fired?

4 A He was there.

5 Q Okay. And Officer Cristobal a-VEE-ya, or A-vil-a
6 [Avila], how do you say it?

7 A Officer Cristobal a-VEE-la [Avila], yes --

8 Q Avila.

9 A -- he was present.

10 Q Officer James Collins was present?

11 A Present.

12 Q Officer Joseph Grams present?

13 A Present.

14 Q Officer Jason Jensen present?

15 A Yes.

16 Q And you.

17 A Yes.

18 Q Okay. Who else was there?

19 A Officer Kai Anderson, Detective Metz, and captains.
20 Lieutenant Shelley Metzler was there. My District 2
21 captain. Alexander Ramirez was there. And then some
22 inspectors and assistant chiefs were also there. I
23 don't recall who, but they were there.

24 Q And how long did this training go? Was it a one day,
25 two day?

1 A It was -- it was scheduled for one day, and I believe
2 we were there for approximately six to eight hours.

3 Q Tell me, sort of give me an overview of the six to
4 eight hours and then I'll get into the specifics. And
5 let me ask you, I'm assuming there was an overview
6 that this incident should never have happened and
7 we're going to go through how to make sure it never
8 happens again, correct?

9 A There was an overview. I don't know if they said
10 exactly what you said, but...

11 Q But close?

12 A They said that Mr. Brown did some things and Milwaukee
13 Police Department did some things, and we could both
14 be better.

15 Q Okay. Well, let's start -- we'll come back and we'll
16 deal with Mr. Brown, okay? But let's start with, what
17 specifically did they say, in terms of the MPD
18 officers involved, specifically what should have been
19 done differently?

20 A Well, like overall?

21 Q We're going to get into everything.

22 A Okay.

23 Q So just wherever you want to start. I wasn't there.
24 We've got six to eight hours to cover and --

25 A Okay.

1 first pause, I remember it was the way Officer Grams
2 approached Mr. Brown, the way he spoke with him, some
3 of the questions he was asking, some of the answers
4 that Mr. Brown was giving him, stuff like that.

5 Q So I'm assuming it was pointed out that Officer Grams
6 should have not pushed or touched Mr. Brown, correct?

7 A It was -- sure, yeah, it was discussed.

8 Q And it was -- there was no basis for him to touch Mr.
9 Brown, correct?

10 A I don't remember exactly what they said, but that was
11 discussed, yes.

12 Q Then you said it was language used. For example, when
13 Mr. Grams says "I own this," they pointed out that was
14 inappropriate, correct?

15 A Yes.

16 Q And they specifically pointed out the racist overtones
17 of the con-- of the statement, correct?

18 A Yes.

19 Q Okay. Who pointed that out specifically to you?

20 A It was the person giving the remedial training,
21 Officer Kai Anderson and Detective Metz.

22 Q Okay. Now, to be fair to you, you were not there at
23 the scene when Officer Grams made these statements
24 with racial overtones to Mr. Brown, were you?

25 A Correct.

1 Q Okay. You agree, however, based on the training you
2 received prior to this, Officer Grams should not have
3 conducted himself in that way, correct?

4 A Things could have been better, yes.

5 Q Okay. Not only could have better, right? You're
6 trained when you approach someone on a parking ticket,
7 you're not to push them or touch them, correct?

8 A Yeah.

9 Q Okay.

10 A Yeah, we're --

11 Q And you're not to use racially-charged language,
12 correct?

13 A Of course.

14 Q Do you know why Officer Grams wasn't disciplined for
15 his use of racially-charged language?

16 A I don't know.

17 Q Okay. Again, you weren't asked or involved in any of
18 those decisions, right, that's --

19 A Correct. That's --

20 Q That's command staff.

21 A Way above me, sir.

22 Q Anything else about that first pause that you recall?

23 A That would have been it, yeah. That pretty much
24 covered it.

25 Q What's the next pause you recall?

1 A I don't think that was -- I don't think that was
2 brought up.

3 Q Okay. So the question of the race issues on his
4 statements made before we got to that point, that had
5 been brought up?

6 A Yes. When he said --

7 Q Okay.

8 A -- the "I own this," one of the instructors actually
9 said, you know, "Maybe use another, something else,
10 some other phrase, because it could be taken as 'I own
11 you.'"

12 Q Right.

13 A So...

14 Q What's a C10?

15 A A C10 is a C code we use. It means warning, verbal,
16 written. It means either a warning or they were
17 advised.

18 Q Did Officer Grams in this training tell everybody
19 there that he would have just issued a C10, a warning?

20 A At the training? No.

21 Q But prior to, you were aware of that?

22 A When I arrived on scene, he told me it was just going
23 to be a C10. He just wanted one more squad. "Thanks
24 for coming, but you're no longer needed here." So we
25 said, "Okay, no problem. Anytime," and we were fixing

1 nature. It was simply just like officer -- officer
2 safety type of thing, because Mr. Brown is fairly
3 tall, fairly large. So they stopped it there. And
4 they were asking Mr. Grams -- or, Officer Grams, you
5 know, various questions. I don't remember what type
6 of questions, but it was basically Officer Grams was
7 stating that, you know, he -- Mr. Brown was kind of
8 evasive and getting more and more agitated, more and
9 more aggressive.

10 Q Now, you saw the video on Grams. Mr. Brown was not
11 getting aggressive or evasive or in any way
12 threatening, correct?

13 A I was actually there present, so Mr. Brown was -- he
14 was getting more agitated. He was probably getting a
15 little angry. He was raising his voice. So that's
16 what I saw.

17 Q Certainly, you could understand why he might be
18 getting a little upset?

19 A Sure.

20 Q He thought he'd get maybe a warning, maybe a ticket,
21 right?

22 A Yeah.

23 Q Certainly didn't expect to be all of a sudden
24 surrounded by six officers, correct?

25 A Yeah, yeah.

1 Q Let's go back to this pause. They pointed out at that
2 point in time what should have been done. What did
3 they say?

4 A I don't -- I don't remember. I don't recall.

5 Q Certainly -- didn't they look at Sergeant Mahnke and
6 Sergeant Krueger and say, "You're the sergeants now.
7 You have these officers that are getting out because
8 of this protect the sergeant," right? Didn't they say
9 it's your obligation to tell people to go -- get in
10 their squads and get back to work and go chase
11 criminals?

12 A Yeah. They brought that up.

13 Q Yeah.

14 A They -- they said, you know, something along the lines
15 of, you know, "There's two sergeants on scene.
16 There's a lot of squads tied up with this. Maybe, you
17 know, clear up some squads, send some people back in
18 service," stuff like that.

19 Q Who was specifically addressing Sergeant Mahnke and
20 Sergeant Krueger, because they were your supervisors,
21 correct?

22 A Correct.

23 Q Are you still in District 2?

24 A I am.

25 Q Okay. And they are, too, currently?

1 A Sergeant Mahnke is not in District 2.

2 Q Where's he at now?

3 A Last I heard, he was at the Dispatch Center.

4 Q Okay. I'm sorry, let's -- I want to -- let's go back.

5 So at this point in time, they paused, and do you
6 recall whether it was Lieutenant Metzler or Detective
7 Metz or Officer Kai Anderson that said to Sergeant
8 Mahnke and Sergeant Krueger, "This is where you should
9 have instructed the officers to leave and go back
10 chasing criminals"? Do you recall who said that or
11 something to that effect?

12 A I don't recall who said it, but it was either --
13 either officer -- or, Officer Anderson or Detective
14 Metz.

15 Q Now, you --

16 A Or there may have been -- it could have been like a
17 lieutenant from the academy. I'm not sure.

18 Q Did anybody in the command staff that were in
19 attendance intervene at that point in time and make
20 the point as either a captain or an inspector that
21 Sergeant Mahnke and Sergeant Krueger crossed the line
22 when they didn't send everybody back to work?

23 MS. GEHLING: I'm going to object to the
24 characterization of "crossed the line," but
25 please answer.

1 A I don't recall. It was a while ago.

2 BY MR. THOMSEN:

3 Q I understand it was a little while ago, but it's
4 still...

5 A Right. That's why we're here, huh?

6 Q ...it sounds like a meeting with a lot of command
7 staff that's probably unique in your experience with
8 the department, correct?

9 A Sure.

10 Q I'm assuming this is not a meeting that one looks
11 forward to or desires to happen, correct?

12 A Definitely not.

13 Q Okay. And I'm just trying to find out what command
14 staff was saying to make the point clear that this
15 should never happen again. That's what I'm trying to
16 get at.

17 A I mean, they were advising us, you know, how it could
18 have gone differently, making it more than what it is,
19 looking for stuff, stuff like that.

20 Q And when you say "looking for stuff," was that at
21 another pause or was that at this pause?

22 A It was at another pause.

23 Q Okay. Was that the next pause or...

24 A I don't -- I don't know the --

25 Q Yeah, let's --

1 A Yeah.

2 Q -- let's just -- okay. We know we have the pause and
3 we know that at this point in time you're told that
4 there are two sergeants on the job and the sergeants
5 should have told everybody disperse and allow Officer
6 Grams to give the warning or simply walk away,
7 correct?

8 A More or less.

9 Q Okay. Then they play some more. What's the next
10 pause you recall?

11 A The next pause was when one of the sergeants started
12 looking in Mr. Brown's vehicle. This angered Mr.
13 Brown. He kind of very quickly, almost kind of like a
14 lunge motion, went up to the supervisor and was like,
15 "Why are you looking in my vehicle?" And then -- you
16 know, and I believe the supervisor said something
17 like, "Because I can," or "I'm allowed to look in your
18 vehicle," stuff -- something like that. They paused
19 it there.

20 Q Did one of the pauses take place where Sergeant
21 Krueger told Mr. Brown, "You should be in handcuffs"?
22 Do you recall that?

23 A I recall that statement. I don't know if they paused
24 it there or not.

25 Q Okay. Did they pause it when Sergeant Krueger said,

1 "We're going to just tow your vehicle"?

2 A I don't recall.

3 Q Is it in an officer's discretion to have a car towed
4 for double parking?

5 A It would be our discretion, yes.

6 Q So if I pull up to a drug store, run into get meds,
7 you can tow my vehicle?

8 A Correct.

9 Q Even if I'm there?

10 a Correct.

11 Q And not just give me a ticket?

12 A I could just give you a ticket and let you drive off.

13 Q Where is the authority to grab someone's property?

14 A It's called an evidence tow. It's just whatever was
15 -- since Mr. Brown was, you know, ultimately tased,
16 arrested, transported to the hospital to get medically
17 cleared, and then conveyed to District 2 for booking
18 and processing, his vehicle was towed due to him being
19 arrested.

20 Q That's an evidence tow?

21 A Yes.

22 Q Okay. But if -- when Mr. Grams -- Officer Grams first
23 came up to him and was just going to give him a
24 warning --

25 A Okay.

1 Q -- he certainly didn't have the authority to do an
2 evidence tow, correct?

3 A Correct.

4 Q Okay. You can't do an evidence tow or threaten an
5 evidence tow unless there's a crime committed or at
6 least reasonable suspicion of a crime, correct?

7 A Correct.

8 Q So when Sergeant Krueger said to Mr. Brown, "We're
9 going to just tow your vehicle," that was an unlawful
10 statement by your sergeant, correct?

11 MS. GEHLING: Object, foundation.

12 A I don't remember Sergeant Krueger making that
13 statement. And I also don't know, you know, whether
14 that was an unlawful or a lawful statement. I guess
15 it was maybe untruthful, but I don't know about
16 unlawful.

17 BY MR. THOMSEN:

18 Q So we were talking about the pause where Sergeant
19 Krueger was looking in the vehicle, correct?

20 A Uh-huh.

21 Q And earlier, you said that, you know, this looking for
22 something.

23 A Yes.

24 Q And you implied that the trainers or the individuals
25 making this statement were pointing out that that is

1 inappropriate, correct?

2 A They had indicated that -- and they were asking why
3 were the sergeants, when their job is to supervise the
4 officers on scene, why the sergeants were looking for
5 something.

6 Q Exactly. And they pointed out that it's inappropriate
7 to go out and try to fabricate or come up with
8 pretextual arguments to take people into custody,
9 correct?

10 MS. GEHLING: Objection, argumentative,
11 totally mischaracterizes what he has testified to
12 thus far. I mean, can -- but please answer it,
13 if you can.

14 A I'm sorry, what was the question?

15 BY MR. THOMSEN:

16 Q Let me try to rephrase instead of letting him play it
17 back here. It takes -- let's see if we can be
18 quicker.

19 So number one, the point was, per the protocol,
20 the sergeants would not be routinely looking at the
21 vehicle, correct?

22 A So they were saying that the sergeants should stick to
23 their job of supervising and not looking to further an
24 investigation that would have resulted in maybe a
25 warning or a citation.

1 Q Okay.

2 A But there are sergeants, and they have the, you know,
3 lawful and legal ability to, you know, further
4 investigations if they so choose or wish.

5 Q I'm trying to get a handle in terms of your training,
6 what you've learned in terms of when you see an
7 officer, a superior officer, using your language,
8 saying something untruthful to a person who's only
9 there for a parking ticket, what training did you
10 receive in terms of what is required of you to tell
11 that officer to act within the law?

12 A Untruthfulness, as far as how we can use
13 untruthfulness against subjects, that's allowed to a
14 certain extent. And I thought that while I was there
15 on scene that this person's use of untruthfulness was
16 acceptable.

17 Q For a parking ticket?

18 A I didn't know where they were going with that, so I
19 thought it was acceptable.

20 Q So what did they discuss about the two sergeants --
21 first of all, they said you shouldn't have been
22 looking to begin with, correct?

23 A More or less.

24 Q Okay. Then what did they say in terms of what they
25 did with what they allegedly were doing looking?

1 Certainly someone said this was inappropriate and you
2 took the next step inappropriately, correct?

3 A I'm not sure I understand your question, sir.

4 Q Okay, fair enough. I'm trying to anticipate what
5 someone reasonable would be saying at this meeting. I
6 wasn't there. So what did they specifically tell you
7 and everybody in the room Sergeant Mahnke and Sergeant
8 Krueger did inappropriate?

9 A What they did inappropriately?

10 Q Yeah.

11 A Well, like I said, they told them that their job is
12 to, you know, supervise. Supervise your troops,
13 supervise your staff. So they said the first thing,
14 you know, they should have let some squads -- cleared
15 up some squads so they can get back to, you know,
16 investigating other aspects of the city, other parts
17 of the city. And then they stated that when they
18 started looking inside the vehicle and some of the
19 statements they made after observing items inside the
20 vehicle made other officers on scene kind of amped up,
21 and that they should have -- they should have tried to
22 calm the situation down, de-escalate it, and kind of
23 let -- you know, smooth it over, so to speak, and let
24 everybody be on their way.

25 Q Did they point out to Sergeant Mahnke and Sergeant

1 Krueger that the way that they were acting was
2 potentially racially based and inappropriate?

3 A I don't -- I don't know. I don't recall them using
4 that language.

5 Q Certainly, as you were listening, you thought that
6 they were implying that much?

7 MS. GEHLING: Objection, mischaracterizes
8 what he just said.

9 A Yeah. I don't recall them using that language.

10 BY MR. THOMSEN:

11 Q So they said there was items. What items did the
12 people at the remedial training point out it was
13 inappropriate to either discuss or reference?

14 A I don't understand your question.

15 Q You said that when they were talking about Sergeant
16 Mahnke and Sergeant Krueger looking and discussing
17 items, what were they talking about, what items?

18 A Oh. So as they looked inside of Mr. Brown's vehicle
19 to the much -- to much displeasure of Mr. Brown, they
20 observed some paper targets that had been shot into.
21 They observed multiple paper targets that had been
22 shot into. And so those are some of the items they
23 observed.

24 Q And what did the trainers or the command staff or
25 whoever was running this remedial training say about

1 that whole issue?

2 A So they said, you know, "You observed those items.
3 What happened next?" The sergeants basically said,
4 "We asked Mr. Brown if he had any weapons, if he had a
5 CCW, to which Mr. Brown replied, 'What's that?'" And
6 then one of the sergeants said, "A concealed carry
7 weapons permit." And Mr. Brown said that he did not
8 have one. And then, you know, I was there, you know,
9 so you're there hearing this, so that kind of made me,
10 you know, kind of be on high alert.

11 Q Let me -- this is really important.

12 A Okay.

13 Q So you said what you heard was Officer -- I mean,
14 Sergeant Mahnke asking about concealed carry?

15 A Yes.

16 Q Okay. Up until Sergeant Mahnke mentioned concealed
17 carry, you weren't thinking anything, right?

18 A I wasn't thinking my -- how should I say this? My
19 threat level was fairly low.

20 Q You knew -- you were there. Grams was going to write
21 him a warning for a parking violation, right?

22 A That's what we were told at first, yes.

23 Q Right. And you're standing there and that's what you
24 think you're dealing with, correct?

25 A Correct.

1 Q And so the issue of your concern for your safety
2 didn't even come into play until Sergeant Mahnke
3 mentioned concealed carry, correct?

4 A No, it did. You know, we're always aware of subjects
5 -- subject-to-officer factors, safety to the
6 sergeants, stuff like that. But my threat level was
7 fairly low.

8 Q Now, during this discussion, when they paused the
9 training and they discussed these paper targets, I'm
10 assuming that the detective or Lieutenant Metzler,
11 someone said the fact that you have paper targets is
12 irrelevant to any issue going on with Mr. Brown that
13 night, correct?

14 A No. They really didn't bring that up much.

15 Q So they didn't talk about the fact that -- I'm a deer
16 hunter, right?

17 A Okay.

18 Q Okay. Are you a deer hunter?

19 A I am.

20 Q Okay. Have you ever gone target practicing?

21 A I have.

22 Q Have you ever had targets in the back seat of your
23 car?

24 A No.

25 Q Okay. Are you aware of anybody that had targets in

1 the back seat of their car?

2 A I am.

3 Q Okay. You have an absolute constitutional right to go
4 shoot at targets, right?

5 A Sure.

6 Q And because I have -- if I'm out getting ready to go
7 deer hunting and I have targets in my back seat,
8 that's not reasonable suspicion of anything, right?

9 A It's a cause for concern, I would say.

10 Q What do you mean it's cause for -- I mean, people have
11 a constitutional right to concealed carry, correct?

12 A Correct.

13 Q Now, the fact that Madison passes the law doesn't
14 necessarily help you because it puts people out on the
15 street with guns that you don't know about, right?

16 A Correct.

17 Q Okay. So -- but --

18 A That's not the issue here.

19 Q That's right, it's not the issue. So the issue is, a
20 deer hunter -- anybody, me, you -- have the right to
21 have targets in the back seat...

22 A Sure.

23 Q ...right?

24 A Yeah.

25 Q And that by itself doesn't trigger any reasonable

1 suspicion, correct?

2 A Like I said, it doesn't...

3 Q Okay.

4 A ...but it's a cause for concern that the subject
5 you're dealing with may be armed.

6 Q Or it becomes a -- did you see Mahnke and Krueger nod
7 at each other before they went in at Mr. Brown?

8 A I did not.

9 Q You didn't see that on the Grams video when they ran
10 it for you?

11 A I did not.

12 Q Okay. I'd have to double-check. Maybe it's not on
13 the Grams video. So you didn't -- you weren't aware
14 of them nodding at each other before this whole
15 conversation started?

16 A I was not.

17 Q Okay. But certainly, you would have been taught at
18 the academy that one can't see something and create a
19 fabrication to go after someone, correct?

20 A I'm not sure I understand the question.

21 Q You're not allowed to look at facts, for example, the
22 targets, and say, "Oh, now I'm scared they've got a
23 gun. I've got a right to take him down." You're not
24 allowed to fabricate evidence like that, right?

25 A You're not allowed to fabricate, you know, your

1 probable cause --

2 Q Right.

3 A -- sure.

4 Q Okay. Did you ever have any discussions with either
5 Sergeant Mahnke or Sergeant Krueger as to why they did
6 what they did? Did you ask them, "What were you
7 doing?"

8 A I did not.

9 Q Okay. In this meeting when they were showing the
10 video, did anybody in the command staff point out to
11 Sergeant Mahnke and Sergeant Krueger that this whole
12 nod look fabrication of this concern about the targets
13 was wrong and unlawful?

14 MS. GEHLING: Objection.

15 BY MR. THOMSEN:

16 Q Or just wrong, put it that way. Certainly they didn't
17 say unlawful.

18 MS. GEHLING: Objection, mischaracterizes.

19 If we could stop using -- I mean, if you want to
20 -- if you want to term it "fabrication," that's
21 fine, but you keep saying it as if he had said
22 that -- calling it a fabrication and he never
23 did, so I would -- I think you need to restate
24 your question.

25 BY MR. THOMSEN:

1 Q What I'm just getting at, I'm assuming, maybe wrong,
2 that someone during this meeting specifically told
3 everybody in the room, including Sergeants Mahnke and
4 Sergeant Krueger, that what they did in relationship
5 to the items in the car was wrong in some extent.

6 A How so? What do you --

7 Q I don't know, what did they say? I wasn't there.

8 A I don't understand your question.

9 Q What did they say about Sergeant Mahnke and Sergeant
10 Krueger and looking at it and talking about targets?
11 What did they say to them?

12 A So they said, you know, Sergeant Mahnke and Krueger
13 stated they observed the paper targets that he had in
14 the back seat of his car that led on to questions
15 about are you armed, do you have a handgun, yada,
16 yada, yada, stuff like that. That caused other
17 officers on scene to be on high alert, including
18 myself. And then ultimately, Mr. Brown was told to
19 take his hands out of his pockets. He would not. And
20 then that caused other people to go hands on with Mr.
21 Brown. And then he was ultimately, you know, taken to
22 the ground, tased, arrested, and conveyed to the
23 hospital.

24 Q And is this at a pause? What are they saying in terms
25 of what was inappropriate about that whole process?

1 A Well, they didn't really say nothing was inappropriate
2 about that whole process. A couple pauses ago, they
3 said that the supervisors should have, you know,
4 handled the officers on scene and not been involved
5 with further in any investigation into Mr. Brown's
6 parking trouble.

7 Q And so you're saying that after that, no one in the
8 room, command staff or academy or training, was
9 critical of anybody's conduct?

10 A Not -- supervise-wise? Not supervisor-wise. I
11 thought that's what you were --

12 Q Okay.

13 A -- specifically asking about. Not supervisor --

14 Q What about officer-wise?

15 A Sure.

16 Q Who? What?

17 A They were asking -- they were asking Officer Collins
18 why he stepped on his ankle. They were asking other
19 officers there about, you know, various grabs and
20 techniques and stuff like that. They -- that's, yeah,
21 just various, you know, why did you do this, why did
22 you do that, and stuff like that. I don't remember
23 specific statements made, but they were questioning
24 why certain things were done.

25 Q Would it be fair to say that during this training, it

1 was very clear that no use of force should have
2 occurred with respect to Mr. Brown?

3 A Depends on who you ask.

4 Q Well, let's go through in the room. There were
5 clearly people in the room that said no use of force
6 should have been used, correct?

7 A There was some people that said that the level of
8 force used, they were okay with. They were not okay
9 with the initial contact and the contact that led up
10 to the use of force.

11 Q I just want to be very clear because I'm going to go
12 talk to everybody else in the room.

13 A Sure.

14 Q You're saying that no one in that room said Mr. Brown
15 should never have been subject to any force?

16 A I'm sure there was people that said that, but I don't
17 remember...

18 Q Who?

19 A ...who or what those statements were.

20 Q Certainly you would agree that -- strike that.
21 Certainly you would agree that Mr. Brown, at a
22 minimum, should have just received a warning and
23 everyone should have been on their way, correct?

24 A I can agree to that.

25 Q Okay. And recognizing then that he should have just

1 been driving away with a warning, there is no
2 reasonable basis ever to use force against such a
3 person, correct?

4 MS. GEHLING: Objection, foundation.

5 A It depends. That would be my answer.

6 MR. THOMSEN: Let's take five and we'll be
7 back.

8 THE REPORTER: Off the record.

9 (Off the record)

10 THE REPORTER: We're back on the record.

11 (Exhibit 4 identified)

12 BY MR. THOMSEN:

13 Q I'm going to show you what's been marked as Exhibit 4.
14 Can you please identify that?

15 A Exhibit 4, it's the Oath of Office that I and several
16 other people took on the 5th of December 2016.

17 Q And I take it that's when you became a sworn officer
18 with the Milwaukee Police Department, correct?

19 A Yes.

20 Q And your oath in part says you will support the
21 Constitution of the United States and the Constitution
22 of the State of Wisconsin, correct?

23 A Yes, sir.

24 Q And to enforce all of the laws of the United States,
25 the State of Wisconsin, the ordinances of the City of

1 Milwaukee, and obey all of the lawful orders of my
2 superior officers, correct?

3 A Yes, sir.

4 Q And faithfully discharge the duties of my office to
5 the best of my ability, so help me God, correct?

6 A Yes, sir.

7 Q So it says, "obey all of the lawful orders."

8 A That's correct.

9 Q Okay. That implies that you're swearing an oath not
10 to obey unlawful orders, correct?

11 A That's correct.

12 Q You know, you were there. You heard Sergeant Krueger
13 lie to Mr. Brown. You knew he just there on a
14 warning. On what basis would you have followed any
15 order by Sergeant Mahnke or Sergeant Krueger to use
16 force with Mr. Brown?

17 A I don't understand the question. What are you asking?
18 (Exhibit 5 identified)

19 Q Well, as a sworn officer -- let me just -- I'm going
20 to show you what's been marked as Exhibit 5. You know
21 what that is, correct?

22 A I do.

23 Q What is it?

24 A Milwaukee Police Department Code of Conduct book.

25 Q And I'm assuming you've read it?

1 A I have.

2 Q And this is the code that you are under oath to
3 implement, correct?

4 A It's the Code of Conduct, so these are rules we adhere
5 to.

6 Q And turning to -- it is -- it'd be page 6 with the...

7 A 06.

8 Q 06 using the --

9 A Okay.

10 Q -- pages on the code, right?

11 A Uh-huh.

12 Q 2.02, in quotes, "Members shall oppose and, if
13 possible, prevent any violation of the Code of Conduct
14 and report violations if they occur. Members will not
15 be punished but will be protected and supported for
16 reporting a violation of the Code of Conduct unless
17 the report is shown to be malicious or ill-founded."
18 Did I read that correctly?

19 A You did.

20 Q So when you were aware that Sergeant Krueger was lying
21 to Mr. Brown, why wouldn't you have reported that to
22 your supervisors?

23 A Well, there is -- why didn't I -- what was the
24 question?

25 MR. THOMSEN: Please read it.

1 THE REPORTER: Stand by.

2 (Question played back)

3 THE REPORTER: Okay. Please continue.

4 A So we are allowed to be untruthful pending an
5 investigation while we are conducting our
6 investigatory duties. And I believe Mr. Krueger --
7 or, Sergeant Krueger was doing that in his
8 investigation, so that's why I did not report it.

9 BY MR. THOMSEN:

10 Q What investigation was Sergeant Krueger conducting?

11 A I don't know. You'd have to ask Sergeant Krueger.

12 Q Well, here, if you don't know he's investigating, why
13 do you say he's lying while he's investigating?

14 A I know he's investigating, but I don't know what he's
15 investigating.

16 Q How do you know he's investigating?

17 A Because he's clearly looking in the vehicle looking to
18 further this investigation.

19 Q Or maybe he's acting unlawfully and he needs to be
20 stopped, right?

21 A I don't believe Sergeant Krueger was acting
22 unlawfully, otherwise he would have been, you know,
23 stopped.

24 Q So just so I'm clear -- I'll come back to that. 2.03
25 in quotes, "Failure to intervene when a violation of

1 the Code of Conduct occurs or is about to occur shall
2 be treated the same as if the member committed the
3 violation."

4 A Okay.

5 Q See that?

6 A I do see that.

7 Q So part of the code is to intervene to prevent
8 violations, correct?

9 A Correct.

10 Q That means you're obligated to intervene on Mr.
11 Brown's behalf if you see his rights being violated,
12 correct?

13 A Correct.

14 Q And once Grams told you this was a warning and to
15 leave, why didn't you immediately stop Sergeant
16 Krueger and company and say, "Look, this is a parking
17 matter. Grams said he was only going to give him a
18 warning. Stop your conduct"?

19 A Well, the reason I didn't intervene is I didn't think
20 there was a violation. And also, those -- Sergeant
21 Mahnke and Sergeant Krueger are my superiors, so I
22 didn't think there was a violation. I didn't think
23 there was anything unlawful going on, and they're my
24 superiors, so I would hope that they would not do
25 anything unlawful.

1 A You did.

2 Q Sergeant Krueger was not honest in word and deed with
3 respect to Mr. Brown, was he?

4 A He was not. But also, in that same 3.00 Integrity, it
5 says, "We recognize the complexity of police work."
6 So sometimes it's not as simple as you may think.

7 Q Right. You know, I agree that it's complex. But what
8 you told me at the outset is Officer Grams got there,
9 was going to issue Mr. Brown a warning for being
10 double parked. That seems to be pretty
11 straightforward and simple to me, correct?

12 A Yes, sir. It does.

13 Q And I think most young African-American men double
14 parked would expect to just get -- strike that. I
15 would expect that in this city, a young
16 African-American man double parked should reasonably
17 expect he would just get a warning and not
18 subsequently surrounded, tased, stepped on, and thrown
19 in jail.

20 MS. GEHLING: Objection, foundation.

21 A It's debatable.

22 BY MR. THOMSEN:

23 Q What's debatable? Is that because that's allowed in
24 this department?

25 A It's debatable because I don't know if that person

1 would either get a warning or a citation.

2 Q Either way, he shouldn't be surrounded, tased,
3 arrested, spend the morning in jail, correct?

4 A Well, it depends what the investigation is.

5 Q What we have is a C10 warning for parking.

6 A Correct. That's what we had.

7 Q That's exactly what Mr. Brown had, right?

8 A That's what we had.

9 Q And as Mr. Brown having that, he had the right to get
10 his warning ticket and drive home with his date,
11 correct?

12 A Correct.

13 Q And after that, he wasn't able to, right?

14 A Correct.

15 Q He was surrounded, correct?

16 A Correct.

17 Q He was tased by you, correct?

18 A Correct.

19 Q Handcuffed.

20 A Correct.

21 Q Stepped on.

22 A Correct.

23 Q Taken to the hospital.

24 A Correct.

25 Q Booked.

1 A Correct.

2 Q Those are all violations of a young man's
3 constitutional rights when all that should have
4 happened was a warning ticket, correct?

5 MS. GEHLING: Objection, foundation.

6 A So Mr. Brown would have gotten a warning, but then Mr.
7 Brown decided to take his hands and place them on an
8 officer. And at that point, that raises the level of
9 everything, okay. It's technically a battery to a law
10 enforcement officer. So that gives you more
11 investigative, you know, more room. So as far as --
12 let me make sure I answer your question, okay?

13 BY MR. THOMSEN:

14 Q Yeah. Tell the jury, okay? Tell the jury.

15 A As far as, you know, the parking citation, I'm sure
16 Mr. Brown would have gotten a citation and been on his
17 way. But before being issued a parking citation, Mr.
18 Brown decided to place his hands on another officer.
19 That's what kind of raised everybody's level of, you
20 know, investigation, everything. It raised everything
21 pertinent with that investigation.

22 Q Exhibit 5, 3.0, in quotes, "Our behavior shall inspire
23 and sustain the confidence of our community." Did I
24 read that correctly?

25 A Where's that at?

1 Q 3.10 on page 06. Under Integrity, you see that?

2 A Okay, yep.

3 Q In quotes, "Our behavior shall inspire and sustain the
4 confidence of our community." Did I read that
5 correctly?

6 A You did.

7 Q Do you believe your conduct and your fellow officers'
8 conduct that night with Mr. Brown inspired and
9 sustains the confidence of the Milwaukee community?

10 A My opinion, is that what you're asking?

11 Q Yeah. I want you to tell the jury, yes. Yes or no?

12 A Maybe. I don't know.

13 Q Next page of Exhibit 5, 3.11.

14 MS. GEHLING: Is it 8, are you referring to
15 8. I'm sorry, okay.

16 BY MR. THOMSEN:

17 Q You with me?

18 A Yep.

19 Q 3.11, in quotes, "Department members are required to
20 be complete, honest, and accurate with respect to all
21 relevant facts and information pertaining to any
22 criminal or civil investigation, report, or inquiry."
23 Did I read that correct?

24 A You did.

25 (Exhibit 6 identified)

1 Q I'm going to show you what's been marked as Exhibit 6.
2 Can you tell me what that is?

3 A Exhibit 6 looks like a report that I wrote on Friday,
4 January 26th, 2018.

5 Q Recognizing that your reports are to be complete,
6 honest, and accurate with respect to all relevant
7 facts, when I read your report, I didn't see any
8 reference in here to the fact that Sergeant Krueger
9 was lying to Mr. Brown.

10 A Okay.

11 Q Why not?

12 A I don't know.

13 Q Should have been, right?

14 A Not necessarily.

15 Q Well, if your report is supposed to be complete and
16 honest, why wouldn't you write in your report that Mr.
17 Krueger was lying to Mr. Brown?

18 A Because, once again, we are entitled to lie to
19 subjects pending an investigation.

20 Q So you're telling this jury that when someone comes up
21 and decides they're going to write you a warning
22 ticket for a parking violation, you have the right to
23 lie to them?

24 A Any investigation, you know, because officers get lied
25 to all the time. So Supreme Court, jury decided that

1 pockets, and the subject just stood there and did
2 nothing. Sergeant Mahnke then, once again, told the
3 subject to get his hands out of his pockets, and the
4 subject started very slowing pulling his hands out of
5 his pockets."

6 Q And what? How were you fearing for your safety?

7 A So like I said, the previous sentence, as well as when
8 Sergeant Mahnke was looking inside of Mr. Brown's
9 vehicle, he started asking Mr. Brown questions about
10 the concealed carry permit, if he had a gun, if he had
11 any firearms. Mr. Brown didn't know what a concealed
12 carry permit was. That all just kind of alerted me to
13 a higher level than I already was.

14 Q Everything that -- you're talking about Sergeant
15 Mahnke, what he's saying, right?

16 A Correct.

17 Q Until Sergeant Mahnke started talking about a gun or
18 concealed carry, you never feared for your safety,
19 correct?

20 A No.

21 Q Right?

22 A I mean, to a certain extent, but not to the level of,
23 you know, that the subject was armed with a weapon.

24 Q Why doesn't your report state you pulled your gun?

25 A Because I didn't remember pulling my gun. And all of

1 the bodycams were locked, so I could not view my
2 bodycam prior to this report, so that's why.

3 Q You know, there's a phrase, you know, driving while
4 black, parked while black, right? You've heard those
5 phrases, right?

6 A I've heard of those phrases.

7 Q And you're fully aware that there is a real and
8 genuine concern of young black men, in particular,
9 that if something goes south with officers, they could
10 end up dead?

11 MS. GEHLING: Objection, speculation,
12 foundation.

13 Please answer.

14 A Anybody could end up dead if something goes wrong with
15 an officer, not just the scope you're trying to limit
16 to, which is black, young, African-American males.

17 BY MR. THOMSEN:

18 Q Okay. Officer Samardzic, you're the future of our
19 city, okay? You're sitting there talking to Mr. Brown
20 and watching him for a while, correct?

21 A Sure.

22 Q How many times did he have his hands in and out of his
23 pockets while you were watching?

24 A I don't recall.

25 Q And that's because you didn't even have any concern.

1 You didn't see a bulge in his pants or any concern
2 that he was in any way a threat or had a gun, correct?

3 MS. GEHLING: Objection, mischaracterizes
4 his testimony.

5 Answer, please.

6 A I had a concern just simply based on how large and
7 tall he was and big. He's a big guy, so that was my
8 main concern. But prior to Mister -- or, prior to
9 Sergeant Mahnke asking those questions about the gun,
10 I did not think that Mr. Brown was armed.

11 BY MR. THOMSEN:

12 Q And so you're sitting there objectively. It's your
13 obligation to make decisions based on your
14 observations, correct?

15 A Yes.

16 Q You're standing there and there's nothing about what
17 Mr. Brown is doing that makes you believe he's armed,
18 correct?

19 A At that point in time, no.

20 Q Okay. So now, all of a sudden, you have your gun
21 actually drawn. How do you get your gun out and in
22 play when all we have is a young, African-American man
23 who's supposed to get a C10 warning for a parking?

24 A So like I stated before, Sergeant Krueger -- or,
25 Sergeant Mahnke started looking in Mr. Brown's

1 vehicle. Based on Sergeant Mahnke's questions to Mr.
2 Brown and the fact that he was focusing on weapons,
3 guns, something that Mr. Brown could be armed with,
4 that kind of alerted myself and other officers on the
5 scene. So that's why I just -- I took my handgun out
6 of my holster and I had it like immediately in front
7 of me. We call it the SUL position. It's kind of a
8 position where it's readily available and can be
9 presented if the needs are met, but it can also be re-
10 holstered when the needs are not met, which, you know,
11 I took a few steps back because everybody went hands
12 on. I took a few steps back just in case if they took
13 Mr. Brown's hands out of his pockets and Mr. Brown had
14 a firearm or some sort of a weapon in there. They
15 took Mr. Brown's out of his pockets, and he did not
16 have any weapons, other than two cell phones and a box
17 of condoms. I decided that at that point in time, the
18 need for my firearm to be out was no longer needed, so
19 then I re-holstered.

20 Q It's not in your report.

21 A Correct.

22 Q Exhibit 6.

23 A It's not.

24 Q Your report is supposed to be complete, honest, and
25 accurate.

1 A Correct. And my report is complete, honest, and
2 accurate.

3 Q Other than the fact it doesn't say anything about you
4 pulling a gun, right?

5 A Yes, sir.

6 Q Okay.

7 THE REPORTER: Excuse me. We're very close
8 to the end of the first reporter. Briefly at
9 this point in time we have to go off the record.

10 (Off the record)

11 THE REPORTER: Okay. We're beginning a
12 second video. Back on the record.

13 (Exhibit 7 identified)

14 BY MR. THOMSEN:

15 Q I'm going to show you what's been marked as Exhibit 7.
16 You've seen that?

17 A Looks to be an arm of some sort.

18 Q Let me represent it's photos taken, I believe by the
19 department, of Mr. Brown's taser wound.

20 A Okay.

21 Q You didn't see those before?

22 A I did not.

23 Q Okay. So tell me about your taser and how it works.
24 Would it have deployed two prongs at those two
25 locations?

1 BY MR. THOMSEN:

2 Q It certainly looks like that on the video, right?

3 A Well, no use of force looks good, with all due
4 respect. You're trying to control another human
5 being. So if it were to look pretty, we'd be in the
6 movie business or something.

7 But, you know, you're trying to control another
8 human being, make him do something that he may not
9 want to do. So clearly, Mr. Brown did not want to
10 comply, didn't want to put his hands behind his back.
11 He didn't want to, you know, get on the ground.
12 Sometimes in situations like that, you've got to make
13 sure that you're safe and that the person complies and
14 is in handcuffs controlled.

15 Q Officer Collins kneed him in the groin. Is that
16 appropriate?

17 MS. GEHLING: Objection, assumes facts not
18 in evidence.

19 A I don't know who kneed him, so I don't know how you
20 want me to answer that.

21 BY MR. THOMSEN:

22 Q Collins was standing on his leg, or his ankle. You
23 saw that, right?

24 A I did.

25 Q That's appropriate?

1 A That's not the way we were trained. I don't think it
2 was appropriate.

3 Q Would you agree that standing on his ankle was
4 unreasonable force?

5 MS. GEHLING: Objection, foundation.

6 A I would say it's not how we were trained. It's not --
7 I wouldn't say it's unreasonable; it's just not how we
8 were trained.

9 BY MR. THOMSEN:

10 Q Okay. How were you trained?

11 A We were trained to hold the legs with our arms, not
12 hold the legs with the bottom of our feet.

13 Q You had boots on, right?

14 A Yes.

15 Q So how is using your boots to stand on a person's leg
16 reasonable use of force when you are trained to hold
17 them down?

18 MS. GEHLING: Object, foundation.

19 A Well, I guess -- it's not -- I guess it's not how we
20 were trained.

21 BY MR. THOMSEN:

22 Q Can we have some courage and truth here?

23 MS. GEHLING: Objection.

24 BY MR. THOMSEN:

25 Q Right?

1 Q Right?

2 A I don't know why, you know, I didn't. I don't know
3 why, but I didn't.

4 Q In hindsight, you regret not doing that, at least
5 that, right?

6 A I regret not doing -- yeah.

7 Q Exhibit 5, 10 -- page 10. This is under 5, Respect,
8 "We hold life in the highest regard. We treat all
9 citizens and colleagues with dignity and respect and
10 are fair and impartial as we perform our duties." Did
11 I read that correctly?

12 A You did.

13 Q 5.01, "Department members shall treat the public and
14 each other with courtesy and professionalism." Did I
15 read that correctly?

16 A Yes, sir.

17 Q Do you agree that you and your fellow officers did not
18 treat Mr. Brown with courtesy and professionalism?

19 A I thought at first we did, but then -- then we may
20 have strayed away from that.

21 Q 5.03, "Members shall promptly obey any proper or
22 lawful order emanating from any officer of higher
23 rank. Any improper or unlawful orders should be
24 reported to a supervisor of a higher rank." Did I
25 read that correctly?

1 you recall seeing that and hearing that when you
2 watched the video?

3 A I don't recall.

4 Q If it's there and it's true, you knew that Krueger had
5 no basis to be saying anything to Mr. Brown about
6 towing his car, correct?

7 MS. GEHLING: Objection, argumentative.

8 A "Brown is told by Krueger that his car is going to be
9 towed for being in a handicap spot." It looks like
10 the basis is he's in a handicap spot, so that's why
11 his vehicle would be towed.

12 BY MR. THOMSEN:

13 Q Here, if I heard you correctly, you can't do an
14 evidence tow unless there's reasonable suspicion of a
15 crime, correct?

16 A For an evidence tow.

17 Q So are you telling me somebody standing there with the
18 car, you can tow the car without giving him a ticket,
19 just tow the car?

20 A Oh, no.

21 Q Okay, okay. So when you -- assuming that this is what
22 your -- what's on your camera and you can hear it,
23 when you heard Krueger tell Mr. Brown that his vehicle
24 was going to be towed for being in a handicap spot,
25 why didn't you tell Sergeant Krueger, "You can't do

1 Q Are you telling me that it's MPD practice when
2 someone's getting a C10 warning ticket, you have the
3 right to tell him, "You should be in handcuffs"?

4 A No.

5 Q You can't put someone in handcuffs unless you have
6 probable cause of a crime, correct?

7 A Or reasonable suspicion, yes.

8 Q At that point in time you're looking at Sergeant
9 Krueger talking to Mr. Brown, there is no reasonable
10 suspicion or probable cause of any crime, correct?

11 MS. GEHLING: Objection, foundation.

12 A That's why Mr. Brown was not in handcuffs.

13 BY MR. THOMSEN:

14 Q So why did Sergeant Krueger say, "You should be in
15 handcuffs"?

16 MS. GEHLING: Objection, foundation,
17 speculation. He's not Sergeant Krueger.

18 A I don't -- I don't know. I'm not Sergeant Krueger.

19 BY MR. THOMSEN:

20 Q I'm trying to find out, what is it going to -- what's
21 it going to take for an officer when they see the
22 sergeant acting improperly for someone to stand up to
23 him with some courage and say, "What are you doing?"

24 MS. GEHLING: Objection, argumentative.

25 A It would take for that person to violate their

1 MS. GEHLING: Objection, foundation.

2 BY MR. THOMSEN:

3 Q Did I read that correct?

4 A You did read that correct.

5 Q And you got remedial training, right? So at the
6 remedial training, what did they tell you you failed
7 to do with respect to your contact with Mr. Brown on
8 January 26, 2018?

9 A As far as me, they didn't really tell me much. They
10 mostly focused on Officer Grams and his body worn
11 camera. But they did state that they were okay with
12 the use of force when it got to that level, and they
13 were okay with everything after that. They were not
14 okay with the contact, the initial contact of how
15 Officer Grams came into contact with Mr. Brown.

16 Q So what remedial training were you told with respect
17 to Rule 1.05? It says, "Shall be familiar with
18 department policy." Did they say you weren't familiar
19 with departmental policy?

20 A Where are you seeing this?

21 Q I'm reading Competence 1.05.

22 A Okay.

23 Q The violation is "LESB - Professional Communications."

24 A Yeah. The professional communication was the
25 violation. Although, I didn't really speak with Mr.

1 --

2 MS. GEHLING: Mischaracterization of what I
3 said. I didn't say anything about unlawful.

4 MR. THOMSEN: Well, we know it's unlawful.

5 MS. GEHLING: You think it's unlawful.

6 MR. THOMSEN: Well, let's go back. You know
7 what, I...

8 MS. GEHLING: Isn't that the point of this
9 lawsuit? If we knew what was unlawful, I don't
10 --

11 BY MR. THOMSEN:

12 Q Well, you know, that's the whole thing, right? That's
13 the whole thing. It seems like the remedial training
14 pointed out that none of this should have happened,
15 right? Isn't that what you learned, Officer
16 Samardzic?

17 A The remedial training pointed out that there was
18 issues and mistakes that happened.

19 (Exhibit 14 identified)

20 Q Okay. Here's Exhibit 14. Have you see this? This is
21 Sergeant Mahnke's discipline. Have you see that?

22 A I have not.

23 Q I want you to look at the third page, in quotes, "His
24 failure in not allowing the initiating officer to
25 conduct his investigation and resolve it with a

1 citation as prescribed by the violation in question
2 led to the escalation of force that concluded with
3 eight officers using force and a citizen being tased."
4 Did I read that correctly?

5 A I don't see where that is.

6 Q I'm sorry.

7 A The third page?

8 Q The bottom of page 3, sorry.

9 A Okay. Sorry, I was trying to catch up.

10 Q Right, that was --

11 A So --

12 Q See the bottom of the page, the last sentence.
13 Sergeant Mahnke was disciplined for, among others, in
14 quotes, "His failure in not allowing the initiating
15 officer to conduct his investigation and resolve it
16 with a citation as prescribed by the violation in
17 question led to the escalation of force that concluded
18 with eight officers using force and a citizen being
19 tased," closed quote. Did I read that correctly?

20 A You did.

21 Q Are you telling me you have never been told in this
22 department that Sergeant Mahnke was disciplined for
23 his failure to timely intervene that ultimately
24 resulted in the unlawful use of force and arrest with
25 Mr. Brown?

1 MS. GEHLING: Objection, vague. Objection,
2 foundation. I mean, he just said he's never seen
3 that document before, and that is the complaint.
4 That's not even...

5 A I was told that Sergeant Mahnke received a discipline.
6 As far as the extent of that discipline, I have no
7 idea.

8 BY MR. THOMSEN:

9 Q No one at the remedial training pointed out during
10 that training that Sergeant Mahnke, his failure in not
11 allowing the initiating officer to conduct his
12 investigation and resolve it with a citation as
13 prescribed by the violation in question led to the
14 escalation of force that concluded with eight officers
15 using force and a citizen being tased...

16 MS. GEHLING: Asked and answered.

17 BY MR. THOMSEN:

18 Q ...nobody told you that during the remedial training?

19 A No, sir. Not that I recall.

20 MR. THOMSEN: Thank you very much.

21 THE REPORTER: Okay. There being no further
22 questions, the deposition is concluded at 1:31
23 p.m. Off the record.